

CHAPTER 11

ANALYSIS OF THE AUDITED COMPLAINTS

A. AUDIT CRITERIA

In order to audit cases in a uniform and consistent manner, the IPA has developed audit forms which it uses when evaluating the quality of the investigations conducted by the SJPD. The different audit criteria are intended to highlight some of the most important aspects of the investigations. Below are some of the criteria used by the IPA along with the IPA's assessments and findings.

Was the investigation completed in a timely manner?

Yes	434	85%
No	74	15%

Cases which are classified as "Class I Use of Force" are to be completed within 180 days of the date the complaint was initiated. All other cases are to be completed within 365 days of the date the complaint was initiated. This table reflects the combined total.

Nature of police contact?

Call for service	173	38%
Self initiated	105	23%
Traffic related	124	28%
Other	49	11%

This section reflects the type of encounter between a civilian and an officer which resulted in the filing of a complaint. Contacts where the officer involved was dispatched to the scene are categorized as "call for service." On the other hand, if the officer initiates the contact without first being requested to do so, it becomes a "self initiated"

contact. The "traffic related" category is reserved for cases where the police contact originated from a traffic related incident. The nature of "other" contacts may be due to warrants and the like.

Most audit criteria are specific to the classification of the complaint. Below are the five case classifications and criteria used by the IPA along with the IPA's assessments.

B. FORMAL COMPLAINTS

Formal complaints are those that allege a serious violation of the law or of the SJPD's policies, procedures, rules or regulations by an officer. There were 161 Formal cases audited from January 1 through December 31, 1997.

Was review requested by the complainant?

Yes	66	41%
No	95	59%

A total of 66 complainants or 41% requested the IPA to review their case. Some of these complainants requested review while the investigation was being conducted by the PSCU, others requested review after the PSCU had completed their investigation of the case.

Did the IPA request further action from PSCU?

Yes	21	13%
No	140	87%

The IPA requested further action from the PSCU in 21 or 13% of the Formal cases it reviewed. Requests varied from re-opening an investigation to providing the IPA with additional information or documentation.

Did the Auditor attend officer interviews conducted by the PSCU after being notified?

Notification requested	104	65%
Notice received	27	17%
Interviews attended	18	70%
Interviews not attended	8	30%

Formal complaints are the only class of complaints which provide a formal process for the questioning of the SJPd officers relevant to the investigation of a complaint. The Auditor attends the officer interviews at her discretion. Factors such as seriousness of the allegations, status of the officer being interviewed as either a subject or witness officer, and time constraints, form part of her

decision. From a total of 161 Formal cases, the IPA requested to be notified of police officer interviews in 104 cases. Of those, the IPA was notified of only 27 interviews. The Auditor attended 18 interviews, and one interview was canceled. The PSCU failed to provide notice for 77 interviews. New requirements for the PSCU regarding notification of officer interviews to the Auditor have been made.

What is the overall quality of the investigation?

Very Thorough	13	8%
Thorough	95	60%
Adequate	33	21%
Inadequate	11	7%
N/A	7	4%

The overall quality of the investigations as reported, reflect the conclusions of the IPA. The IPA lists those cases where the investigator has taken every reasonable step to discover relevant witnesses or evidence as very thorough. Thorough investigations are those where the investigator has taken all the steps likely to discover important evidence. Adequate investigations are those where the investigator took only the most obvious steps to uncover important information. Inadequate investigation are those where not even the obvious steps were taken to uncover vital information.

This section does not apply to cases that could not be investigated due to factors beyond the control of the PSCU (i.e. the complainant did not wish to pursue the case, the officer resigned, the allegations did not involve a SJPD officer, etc.)

Did the IPA agree with the finding of the investigation?

Yes	147	91%
No	14	9%

The IPA disagreed with the finding of the investigation in 14 of the 161 formal cases even after further action was requested from the PSCU. This section reflects the number of times the IPA agreed or disagreed on whether a complaint should have been sustained or not.

Did the incident give rise to criminal action against the complainant?

Yes	85	53%
No	76	47%

Roughly half of the complainants who filed complaints against a police officer were arrested for a crime although criminal charges were not always filed against them. The 47% involves complainants who were not accused of violating any laws.

Was the case sent to the Chain of Command for Finding and recommendations by the PSCU?

Yes	25	16%
No	117	73%
N/A	17	11%

Upon completion of the investigation, the PSCU Lieutenant and investigator determine whether the case merits sending it to the subject officer's chain of command for findings and recommendation of discipline. Only complaints believed to be sustainable by the PSCU are sent to the Chain of Command. All complaints alleging unnecessary force require a review by the Assistant Chief before they can be closed.

C. PROCEDURAL COMPLAINTS

Procedural complaints are those that despite the allegation of misconduct, no factual basis supports the allegation. There were 97 Procedural complaints reviewed in 1997.

Was the complaint properly classified?

Yes	88	91%
No	9	9%

The IPA found that 9 of the Procedural cases should not have been classified as Procedural complaints. Instead, these cases should have been classified and investigated as Formal cases because there was a basis to support a misconduct allegation by the complainant.

Was the procedure properly applied?

Yes	87	90%
No	10	10%

The IPA found that in ten of the Procedural cases, the subject officer did not follow the proper procedure. Procedural cases may only be classified as such if the officer followed the correct procedure. Otherwise, the complaint should be investigated as a Formal complaint.

Did the IPA request further action from PSCU?

Yes	11	11%
No	86	89%

The IPA requested further action from the PSCU in 11 of the Procedural cases it reviewed. Requests varied from re-opening an investigation to providing the IPA with additional information or documentation.

What is the IPA's finding of the investigation?

Agree	87	89%
Disagree	10	11%

The IPA disagreed with the finding of the investigation in 10 of the 97 Procedural cases even after further action was requested from PSCU.

D. COMPLAINTS WITHOUT A SIGNED BOLAND ADMONISHMENT

The “No Boland” complaints are those where the complainant did not sign the required Boland Admonishment. State law requires that the complainant sign an admonishment which provides notice that if the complainant knows the allegations to be false they can be prosecuted. The PSCU conducts a preliminary and not a Formal investigation into these complaints. The IPA reviewed 79 “No Boland” cases.

Was the officer(s) involved in the complaint identified?

Yes	69	87%
No	10	13%

Even if the complainant does not return a signed Boland Admonishment, the PSCU attempts to identify the officer(s) involved. This is done in an effort to track patterns in the officer's conduct. When the officer can not be identified by the PSCU, the IPA also notes the efforts made by the PSCU investigator.

Was unnecessary force alleged in this complaint? Class I or class II?

Yes Class I	3	4%
Yes Class II	21	26%
No	55	70%

Complaints of unnecessary force where the complainant required medical attention are classified as Class I complaints and must be investigated within 180 days of the date the complaint was initiated. All other complaints must be investigated within 365 days. Three of the “No

Boland” cases audited in 1997 were classified as Class I. Two of them were opened and investigated by the PSCU as “Department-Initiated” complaints because of the serious nature of the allegations. The other Class I complaint also involved injuries to the complainant; however, the initial investigation revealed that the injuries were not caused by a SJPd officer.

Does this complaint involve another allegation, besides unnecessary force, that may warrant further review?

Yes	3	4%
No	76	96%

In cases where the allegations are particularly serious, the PSCU will investigate despite the fact that the complainant did not sign a Boland Admonishment. The IPA found that three cases were closed when they should have been investigated due to the seriousness of the allegations.

E. INFORMAL COMPLAINTS

Informal complaints are those that involve a minor transgression or where the complainant chose the informal process. These complaints are handled by bringing the matter to the attention of the officer’s Chain of Command and his or her immediate supervisor. These complaints are tracked and become part of the officer’s PSCU file. The IPA reviewed 79 Informal complaints in 1997.

Was the allegation a minor transgression?

Yes	48	61%
No	31	39%

In 31 cases, the IPA found that the transgression was not minor; however, the complainant chose the informal process or the allegations were not sufficiently serious enough to merit a Formal investigation.

Was the complainant informed that the complaint may be handled formally or informally?

Yes	72	91%
No	2	3%
Unknown	5	6%

While the PSCU makes the final determination as to the classification of complaints, the complainant’s preference is taken into consideration by the PSCU. The IPA, therefore, audits this area of the complaint process.

Was the Complainant aware that he/she could be contacted by the officer’s supervisor?

Yes	72	91%
No	4	5%
Unknown	3	4%

Part of the Informal complaint process is to have the subject officer’s supervisor talk to the complainant if the complainant wishes to be contacted. The PSCU has the responsibility to inform the complainant of this option. It is the supervisor’s responsibility to notify the PSCU that he/she has contacted the complainant.

Did the IPA request further action from PSCU?

Yes	6	8%
No	73	92%

The IPA requested further action from the PSCU in six of the Informal cases it reviewed, wherein the IPA requested additional information or documentation.

F. POLICY COMPLAINTS

Policy complaints pertain to an established policy, properly employed by a Department member, which the complainant understands, but believes is inappropriate or not valid. The IPA reviewed 35 Policy complaints.

Was the complaint properly classified?

Yes	35	100%
No	0	0%

Policy complaints refer to complaints where the complainant expresses a disagreement with a SJPd policy, not against the officer who was following the policy.

Does the complaint pertain to an established policy?

Yes	34	97%
No	1	3%

The IPA's audit form also includes the policy which is the subject of the complaint. In one case, the complainant asserted that the officers should not be allowed to smoke cigarettes at events where many minors attend. The complainant believed it created a bad impression on the minors. Presently, there is no policy against smoking at these events.

Was the policy properly employed by department member?

Yes	32	91%
No	0	0%
Unknown	3	9%

The IPA looks to the facts of the case to determine if the Department member complied with the policy of the Department.